Qualcomm Incorporated



5775 Morehouse Drive, San Diego, CA 92121-1714 www.qualcomm.com

September 19, 2016

Richard Corey Executive Director California Air Resources Board 1001 "I" Street Sacramento, CA 95814

RE: Qualcomm Comments on the August 2, 2016 Amendments to the Cap-and-Trade Regulation

Dear Mr. Corey,

Qualcomm provides the following comments on the August 2, 2016 *Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation* ("Proposed Amendments"). Qualcomm is a strong supporter of the State's ambitious climate change goals and is actively pursuing its own corporate sustainability strategy.¹ Qualcomm also generally supports the extension of the Cap-and-Trade program, but we believe certain refinements are needed to fulfill the statutory requirements set forth in AB 32 and SB 32. These laws direct the Air Resources Board to design a regulation that "seeks to minimize costs and maximize the total benefits to California", "minimize[s] leakage", and "encourages early action to reduce greenhouse gas emissions."² SB 32 specifically directs the ARB to pursue "cost effective greenhouse gas emissions reductions."³ As the ARB pursues the ambitious climate targets set forth in SB 32, the ARB should ensure that the Proposed Amendments minimize costs, recognize early action, and pursue cost effective emissions reductions. To do this, the ARB should make the following refinements in a subsequent 15 day rulemaking package: (1) broaden the scope of Emissions Intensive Trade Exposed industries to include sectors that are energy intensive and trade exposed, but are not primarily in the manufacturing sector (e.g., technology

¹ Qualcomm has been recognized as a state Climate Action Leader for early and voluntary steps in GHG reporting. Qualcomm has constructed over 3.1million square feet of LEED Buildings that go "beyond current building code" to high standards of energy efficiency and environmental design. In California alone, Qualcomm earned LEED Gold in 2015 for its AY and AZ Buildings, LEED Gold in 2014 for its Q-Addition Building and LEED Gold in 2007 for its W Campus. Qualcomm's energy savings account for 49.5 million kilowatt hours (or approximately 14,055 Metric Tons of GHG emissions annually). Our campus also includes company shuttles, EV charging stations, and other "alternative commuting" options. Qualcomm has been recognized for fourteen years in row by the City of San Diego and the State of California as a leader in recycling and waste reduction efforts. Qualcomm is also proactive in reducing and eliminating hazardous substances in chip packaging.

² Cal. Health and Safety Code Sec. 35862(b)(1) - (8).

³ Cal. Health and Safety Code Sec. 38566.



and R&D companies); (2) rely on the natural gas sector to achieve cost effective emissions reductions for small industrial sources by increasing the inclusion threshold; (3) retain the but-for-CHP exemption to encourage the efficient use of distributed generation technologies; and (4) clarify the but-for-CHP exemption to account for the inconsistent use of language and allow certain facilities containing multiple, operationally distinct cogeneration units to qualify for the exemption.

DISCUSSION

I. <u>The Current Scope of EITE Designations Do Not Adequately Account for "Leakage</u> <u>Risks" Faced by California Businesses.</u>

The current Cap-and-Trade Regulation took steps to "minimize leakage" as required by California Health and Safety Code Section 38562(b)(8) by including provisions for free allocation of allowances to emissions intensive trade exposed ("EITE") industries. The list of "industries" eligible for free allocation generally only includes companies in the manufacturing sector that exceeded the inclusion threshold during the initial rulemakings. Manufacturing is only a subset of California's economy exposed to leakage risks. Technology and research and development companies can be highly energy intensive. Like companies in the manufacturing sector, the capand-trade can create leakage risks for these companies. In many ways, technology and R&D companies can be more easily moved to other states or countries due to the lower capital costs inherent in establishing a new technology and R&D facilities, such as data centers and engineering labs (i.e., compared to a major manufacturing facility with complex permitting requirements). As a matter of consistency in fulfilling the requirements set forth in Health and Safety Code Section 38562(b)(8), the ARB should evaluate new EITE designations for energyintensive entities that are in technology and research and development sectors. The ARB should also consider EITE designations for entities that exceeded the cap-and-trade threshold after the initial review of EITE designations. Qualcomm believes this additional effort is necessary to ensure that the ARB meets the requirements of Health and Safety Code Section 38562(b)(8).

II. <u>Since the ARB Included the Natural Gas Sector in the Cap-and-Trade, It Should</u> <u>Revisit the Inclusion Threshold for Covered Entities.</u>

The ARB should raise the threshold for small industrial entities now that the natural gas sector is covered under the Cap-and-Trade program. The administrative and transactional costs associated with cap-and-trade compliance can be burdensome and expose many small industrial entities to leakage risks when they are not accounted for in the EITE designations. These costs can be minimized consistent with the direction of California Health and Safety Code Section 38566 to achieve "cost effective emissions reductions." The natural gas sector is better able to absorb these costs and minimize the carbon costs borne by end users because natural gas utilities can spread their administrative costs over a large number of customers and purchase compliance



instruments in large volumes through competitive RFOs or through multiple bilateral agreements. In other words, the inclusion of a carbon price signal can be more cost effectively incorporated into the natural gas sector. Moreover, regulating industrial entities through the natural gas sector would still achieve the ARB's emission reduction goals through the enforcement of a cap on total allocations to the natural gas sector and the inclusion of a carbon price signal in natural gas rates as required by CPUC Decision 15-10-032. In order to achieve "cost effective emissions reductions" as required by Health and Safety Code Section 38566, the ARB should raise the Capand-Trade threshold to 50,000 metric tons of CO2(e)/year in Section 95812 of the Proposed Amendments.

III. <u>The ARB Should Not Remove the But-For CHP Exemption.</u>

The Proposed Amendments would revise Section 95851 to phase out the "but-for-CHP exemption" when the natural gas sector is required to consign 100% of their cap-and-trade allowances. This removal is inconsistent with Board Resolution 12-33, which called for revisions to the Regulation that would "incentivize new, efficient distributed electricity generation technologies, such as Combined Heat and Power." As discussed above, the natural gas sector is in a better position to achieve cost-effective emissions reductions. By removing the exemption and including small CHP systems in the cap-and-trade program, the ARB will disincentive these projects because the direct costs of complying with the cap-and-trade program will be more than the indirect GHG costs of the natural gas utility. Moreover, based on Qualcomm's analysis for its CHP investments, installing the alternatives to CHP at its facilities were more GHG intensive than the efficient distributed generation technologies it deployed at the Qualcomm campus. Qualcomm therefore made an investment in CHP systems in order to reduce its GHG emissions. Removing the exemption would be inconsistent with the statutory requirement in California Health and Safety Code Section 38562(b)(1), which directs the ARB to encourage "early action" and the Board's Direction in Resolution 12-33 to incentivize CHP.

Part of the intent behind the but-for-CHP exemption was a recognition that some activities that reduce GHG emissions compared to a business as usual scenario may be discouraged by a direct cap-and-trade compliance obligation. The exemption recognizes and incentivizes the net reduction in GHG emissions attributable to efficiently using the waste heat in a CHP system. Now that the natural gas sector is included in the program, small CHP facilities will be under the cap because natural gas utilities will pass through their GHG costs to facilities that fall below the threshold or otherwise exempt. For these reasons, the ARB should not remove the but-for-CHP exemption.

IV. <u>The ARB Should Revise the But-For CHP Exemption to Account for Facilities that</u> <u>Contain Multiple, Cogeneration Units that Are Operated Independently of One</u> <u>Another.</u>



Section 95852(j) sets forth an important Cap-and-Trade exemption that applies to any "facility with a cogeneration unit that meets the requirements of this section." Based on the language in the exemption and the use of the words "facility" and "cogeneration unit", the existing language in Section 95852(j) lacks clarity as to how the exemption should be applied to a facility with more than one cogeneration unit. Section 95852(j) can be read to apply at both the cogeneration unit level or the facility level. There are instances where there are multiple cogeneration units within a single facility boundary. The facility definition set forth in the Mandatory Reporting Regulation is broad and in certain instances encompasses multiple cogeneration units that are functionally separate, but are nevertheless part of the same facility due to common ownership. In these instances, if the cogeneration units are functionally separate, the exemption should be applied separately to each cogeneration unit. The ARB should amend Section 95852(j) to clarify that when cogeneration units are operated independently of one another, have separate air permits, and the thermal output is put to separate uses, then the cogeneration units will be evaluated separately under Section 95852(j). In these instances, the calculation set forth in Section 95852(j) should be calculated for each cogeneration unit. If each cogeneration unit satisfies the two conditions set forth in Section 95852(j)(1)(A) and (B), then each cogeneration unit should qualify for the exemption and the total emissions associated with the "facility" should be eligible for the limited exemption.

CONCLUSION

State laws require that the Cap-and-Trade be designed in a way the will "minimize costs and maximize the total benefits to California", pursues "cost effective greenhouse gas emissions reductions", "minimize leakage", and "encourages early action to reduce greenhouse gas emissions."⁴ A post 2020 cap-and-trade program must meet these requirements, and to do so there are several changes the ARB should make to the Proposed Amendments. Qualcomm respectfully requests that the ARB continue to examine the list of EITE entity types eligible for free allocation, revise the inclusion threshold, extend the But-for-CHP exemption post-2020 and clarify the exemption in order to fulfill the intent of Board Resolution 12-33. We believe these changes are necessary to meet the statutory requirements set forth in Health and Safety Code Sections 38562(b) and 38566. Qualcomm appreciates the opportunity to submit these comments.

Respectfully Submitted,

Gail Welch

Gail Welch Director of Corporate Sustainability Qualcomm, Inc.

⁴ Cal. Health and Safety Code Sec. 35862(b)(1)